

**BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

Meeting Date: September 20, 2006

Division: Engineering

Bulk Item: Yes X No     

Department: Engineering

Staff Contact Person: David S. Koppel, PE  
County Engineer

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**AGENDA ITEM WORDING:** Approval to rescind Amendment 1 to Memorandum of Agreement for \$180,000 as approved on January 18, 2006 and enter into Amendment 1 to Joint Participation Agreement with the Florida Department of Transportation for the amount of \$26,697.94 for the project described as CR5-A/Flagler Avenue in Key West.

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**ITEM BACKGROUND:** The County and FDOT entered into a Joint Participation Agreement, approved by the BOCC on March 19, 2003, for maintenance on Flagler Avenue, as one of six County roads within the City of Key West. The project was let with all bids coming in above the FDOT budgeted amount. The project was re-evaluated, and was \$180,000 over the budget. The City and the County entered into an Interlocal Agreement whereby the City was to provide the additional \$180,000 to complete the project; however, FDOT has adjusted the final amount to \$26,697.94.

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**PREVIOUS RELEVANT BOCC ACTION:** The BOCC approved the locally funded Joint Participation Agreement on March 19, 2003, and verbally approved Amendment 1 to Memorandum of Agreement between Monroe County and the Florida Department of Transportation at the March 17, 2004 meeting.

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**CONTRACT/AGREEMENT CHANGES:** Revise locally funded Joint Participation Agreement per Amendment 1 as described above.

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**STAFF RECOMMENDATIONS:** Approval as stated above.

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**TOTAL COST:** \$26,697.94

**BUDGETED:** Yes      No X

**COST TO COUNTY:** none

**SOURCE OF FUNDS:** City of Key West

**REVENUE PRODUCING:** Yes      No X

**AMOUNT PER MONTH**      **Year**     

**APPROVED BY:** County Atty      OMB/Purchasing      Risk Management     

**DOCUMENTATION:** Included X Not Required     

**DISPOSITION:**     

**AGENDA ITEM #**



Engineering Division  
1100 Simonton St., Room 2-215  
Key West, Florida 33040  
305-295-4329

# Transmittal

**To:** Dave Koppel

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**From:** Judy Steele

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**Date:** 8/31/06

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**Re:** September Agenda – Flagler Ave. JPA  
amendment

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This agenda item applies to the Flagler Avenue paving project. The County and FDOT entered into a Joint Participation Agreement (BOCC approved on March 19, 2003) for maintenance work on Flagler Avenue.

All of the bids came in over the FDOT budget, therefore the County and the City of Key West entered into an interlocal agreement whereby the City would provide the additional \$180,000. This amendment 1 to Memorandum of Agreement was approved by the BOCC on January 18, 2006.

At the completion of the project, the additional funding needed was revised downward from \$180,000 to \$26,697.94. This agenda item rescinds Amendment 1 to the Memorandum of Agreement that provided the additional \$180,000 and enters into an Amendment to the Joint Participation Agreement for \$26,697.94.

Regards,

A handwritten signature in black ink that reads 'Judy Steele'. The signature is written in a cursive, flowing style.

Judy Steele  
Assistant County Engineer

# MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

## CONTRACT MODIFICATION SUMMARY

Contract with: FDOT Contract # #251457-2 Locally Funded  
 Effective Date: Upon Execution  
 Expiration Date: Within 365 days of final Contractor payment

Contract Purpose/Description: Approval to rescind Amendment 1 to Memorandum of Agreement for \$180,000 as approved on January 18, 2006 and enter into Amendment 1 to Joint Participation Agreement with the Florida Department of Transportation for the amount of \$26,697.94 for the project described as CR5-A/Flagler Avenue in Key West.

Contract Manager: David S. Koppel, 4426 Engineering / #1  
PE  
 (Name) (Ext.) (Department/Stop #)

for BOCC meeting on 08/16/06 Agenda Deadline: 08/01/06

## CONTRACT COSTS/REVENUES

Total Dollar Value of Contract: \$ \$26,697.94 Current Year Portion: \_\_\_\_\_  
 Budgeted? Yes ☐ No ☐ Account Codes: Funding to be reimbursed by City of Key West  
 Grant: \$ \_\_\_\_\_  
 County Match: \$ \_\_\_\_\_

## ADDITIONAL COSTS

Estimated Ongoing Costs: \$ \_\_\_\_\_/yr For: \_\_\_\_\_  
 (Not included in dollar value above) (eg. maintenance, utilities, janitorial, salaries, etc.)


## CONTRACT REVIEW

	Date In	Changes Needed	Reviewer	Date Out
Division Director	<u>7-31-06</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>Judith A. Steele</u>	<u>7-31-06</u>
Risk Management	<u>7-31-06</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>M. Shumaker</u>	<u>7-31-06</u>
O.M.B./Purchasing	<u>8/1/06</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>Salvatore Spallone</u>	<u>8/1/06</u>
County Attorney	<u>8/2/06</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>Jeffrey B. Cassel</u>	<u>8/2/06</u>

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

MEMORANDUM

TO: Tom Willi  
County Administrator

FROM: David S. Koppel   
County Engineer

DATE: July 18, 2006

RE: Temporary Delegation of Authority

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I will be on vacation July 21<sup>st</sup>, 2006 through August 4<sup>th</sup>, 2006. During this time Judith R. Steele, Assistant County Engineer will have full authority to act on my behalf, including approval of all fiscal documents for items relating to Engineering.

DSK/jl  
Signature Authorization Co. Eng.

Cc: County Commissioners  
County Attorney  
Clerk of Courts  
Division Directors  
Payroll Department  
Finance Department

**AMENDMENT ONE TO LOCALLY FUNDED JOINT PARTICIPATION AGREEMENT  
BETWEEN THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
AND MONROE COUNTY**

**FLAGLER AVENUE IN KEY WEST CITY, FROM BERTHA STREET TO SOUTH ROOSEVELT BLVD.**

This Amendment One to that certain Locally Funded Joint Participation Agreement, executed on March 19, 2003 (the "Contract"), incorporated herein by reference, between Monroe County, a political subdivision of the State of Florida ("COUNTY"), and the State of Florida Department of Transportation, a component agency of the State of Florida ("DEPARTMENT"), for the resurfacing of Flagler Avenue in Key West City, from Bertha Street to South Roosevelt Boulevard, programmed under Financial Project Number 251457-2-52-01 ("PROJECT"), is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

**RECITALS:**

**WHEREAS**, the Contract was entered into by both parties pursuant to the approval of the DEPARTMENT and of the COUNTY in the total amount of One Million Two Hundred Twenty Thousand Dollars (\$1,220,000.00) for the construction of the PROJECT; and

**WHEREAS**, final PROJECT costs have been determined and it is necessary to increase the total Contract amount by Twenty-Six Thousand Six Hundred Ninety-Seven Dollars and Ninety-Four Cents (\$26,697.94) to provide additional dollars needed to fully fund the COUNTY's share of PROJECT costs; and

**WHEREAS**, the COUNTY approves the increase in the total Contract amount from \$1,220,000.00 to \$1,246,697.94;

**NOW, THEREFORE**, for the considerations hereinafter set forth:

The Contract dated March 19, 2003, is hereby amended as follows:

Section 1 shall be increased by an amount not to exceed Twenty-Six Thousand Six Hundred Ninety-Seven Dollars and Ninety-Four Cents (\$26,697.94) to the new sum of One Million Two Hundred Forty-Six Thousand Six Hundred Ninety-Seven Dollars and Ninety-Four Cents (\$1,246,697.94).

All other terms and conditions of the Contract are in effect and remain unchanged.

**MONROE COUNTY:**

By: \_\_\_\_\_  
COUNTY Mayor

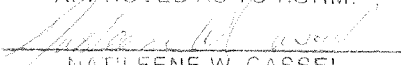
**ATTEST:**  
**(SEAL)**

By: \_\_\_\_\_  
COUNTY Clerk

**LEGAL REVIEW:**

By: \_\_\_\_\_  
COUNTY Attorney

**MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM:**

  
\_\_\_\_\_  
NATLEENE W. CASSEL  
ASSISTANT COUNTY ATTORNEY  
Date 8/1/06

**STATE OF FLORIDA, DEPARTMENT OF  
TRANSPORTATION:**

By: \_\_\_\_\_  
District Secretary

**ATTEST:**  
**(SEAL)**

By: \_\_\_\_\_  
Executive Secretary

**LEGAL REVIEW:**

By: \_\_\_\_\_  
District General Counsel

AMENDMENT 1

to

MOA – Dated April 16, 2003  
(Locally Funded Joint Participation Agreement - Dated March 19, 2003)

Financial Project Number: 251457-2  
County: Monroe


Whereas, Monroe County and the Florida Department of Transportation verbally approved Amendment 1 to MOA– dated April 16, 2003, at the March 17, 2004 Board of County Commissioners meeting, and the Amendment needs to be fully executed by both parties to be finalized.

This Amendment supplements **Item 1** in the subject Memorandum of Agreement as follows:

Additional \$180,000.00 due to be paid by the Participant into the interest bearing escrow account previously established by the FDOT for this Local Fund Agreement for the purposes of the subject project on the \_\_\_\_\_ day of \_\_\_\_\_, 2003. Three equal deposits of \$60,000.00 will be made by Participant. The first is due July 1, 2004, the second on July 1, 2005, and the subsequent deposit is due July 1, 2006, for a total of three deposits for a grand total of \$180,000.00

STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION  
COMPTROLLER

STATE OF FLORIDA  
DEPARTMENT OF FINANCIAL  
SERVICES  
DIVISION OF TREASURY

  
PARTICIPANT SIGNATURE

Mayor Charles "Sonny" McCoy

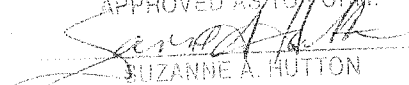
PARTICIPANT NAME & TITLE  
530 Whitehead Street  
Key West FL 33040

PARTICIPANT ADDRESS


59-6000749

FEDERAL EMPLOYER I.D. NUMBER

MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM:

  
SUZANNE A. HUTTON  
ASSISTANT COUNTY ATTORNEY  
12/28/05

(SEAL)  
DEPUTY CLERK DANNY L. KOLHAGE CLERK

BY   
DEPUTY CLERK 1-18-06

## MEMORANDUM OF AGREEMENT

THIS AGREEMENT, made and entered into this 16<sup>TH</sup> ~~19<sup>th</sup>~~ day of APRIL ~~MARCH~~, 2003, by and between the State of Florida, Department of Transportation, hereinafter referred to as "FDOT" and the State of Florida, Department of Financial Services, Division of Treasury and MONROE COUNTY hereinafter referred to as the "Participant".

### WITNESSETH

WHEREAS, "FDOT" is currently constructing the following project:

Financial Project Number: 251457-2  
County: Monroe

hereinafter referred to as the "Project".

WHEREAS, FDOT and the Participant entered into a **Locally Funded Agreement** dated March 19, 2003, wherein DOT agreed to perform certain work on behalf of the Participant in conjunction with the Project.

WHEREAS, the parties to this AGREEMENT mutually agreed that it would be in the best interest of the FDOT and the Participant to establish an interest bearing escrow account to provide funds for the work performed on the Project on behalf of the Participant by the FDOT.

NOW THEREFORE, in consideration of the premises and the covenants contained herein, the parties agree to the following:

1. An initial deposit in the amount of \$ 1,220,000.00 (One Million Two-hundred twenty thousand dollars) will be made by the Participant into an interest bearing escrow account established by the FDOT for the purposes of the project. Said escrow account will be opened with the Department of Financial Services, Division of Treasury, Bureau of Collateral Management on behalf of the FDOT upon receipt of this Memorandum of Agreement. Such account will be an asset of FDOT.

2. Other deposits will be made only by the Participant as necessary to cover the cost of additional work prior to the execution of any Supplemental Agreements.

Lasersigned on 5/03 by id  
date initials

03 APR 16 AM 9:50

10,000,000,000

3. All deposits shall be made payable to the Department of Financial Services, Revenue Processing and mailed to the FDOT Office of Comptroller for appropriate processing at the following address:

Florida Department of Transportation  
Office of Comptroller  
3717 Apalachee Parkway, Suite B  
Mail Station 24  
Tallahassee, Florida 32311  
ATTN: LFA Section

FILED FOR RECORD  
2003 APR 21 AM 10:05  
DANNY L. KOLHAGE  
CLERK, CIR. CT.  
MONROE COUNTY, FLA.

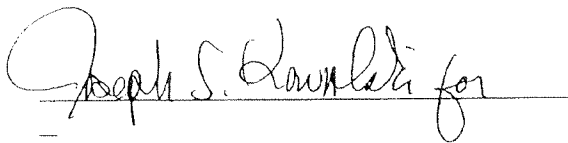
**A copy of this Agreement should accompany any deposits. When the check is mailed to Tallahassee, the District Office should instruct the Participant to mail the District Office a copy of the check.**

4. The FDOT's Comptroller and/or her designees shall be the sole signatories on the escrow account with the Department of Financial Services and shall have sole authority to authorize withdrawals from said account.

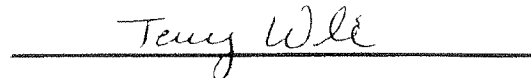
5. Unless instructed otherwise by the parties hereto, all interest accumulated in the escrow account shall remain in the account for the purposes of the project as defined in the LFA.

6. The Department of Financial Services agrees to provide written confirmation of receipt of funds to the FDOT.

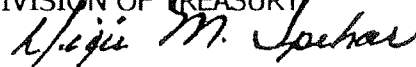
7. The Department of Financial Services further agrees to provide periodic reports to the FDOT.



STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION  
COMPTROLLER



STATE OF FLORIDA  
DEPARTMENT OF FINANCIAL SERVICES  
DIVISION OF TREASURY



PARTICIPANT SIGNATURE 3-19-03

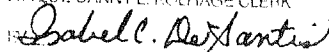
Dixie M. Spehar  
Mayor / Chairman

PARTICIPANT NAME & TITLE

500 Whitehead St., Key West, FL 33040

PARTICIPANT ADDRESS

(SEAL)  
ATTEST: DANNY L. KOLHAGE CLERK



APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

  
ROBERT M. WOLFE

DATE 4-3-03

FEDERAL EMPLOYER I.D. NUMBER

59-600074





**County Administrator**

1100 Simonton Street  
Key West, Florida 33040  
305/292-4443 (phone)  
305/292-4544 (fax)



March 28, 2003

**BOARD OF COUNTY COMMISSIONERS**

Mayor Dixie M. Spehar, District 1  
Mayor Pro Tem Murray E. Nelson, District 5  
Charles "Sonny" McCoy, District 3  
George Neugent, District 2  
David P. Rice, District 4

Mr. Julio Avel  
City Manager  
City of Key West  
P. O. Box 1409  
Key West, FL 33041

Dear Julio:

As you know, there are seven County roads in the City of Key West totaling 19.07 lane miles. Since October of 1997, the County and the City have been discussing the transfer of these roads to the City. Each of these roads has drainage systems in place and is in good condition. Flagler Avenue is being scheduled for construction, and Palm Avenue, which was recently upgraded and improved for nearly 1 million dollars, is the subject of an agreement between the City and the County wherein the City agreed perpetually to maintain landscaping along Palm Avenue from Garrison Bight Bridge to White Street.

On March 19, 2003, the Board of County Commissioners approved a Joint Participation Agreement with the Florida Department of Transportation for over 1.2 million dollars in improvements to Flagler Avenue. As part of this approval, the Board directed staff to contact you to agenda this matter before the City Commission, in hopes of coming to an agreement concerning the transfer of County roads in the City to the City.

Accordingly, please place an item on the next available City Commission agenda for the appropriate County staff to discuss this matter with the City Commission.

Sincerely,

James L. Roberts  
County Administrator

JLR/CDP/bpl

cc: Board of County Commissioners  
Danny L. Kolhage  
David S. Koppel  
Dent Pierce

County Admin. James Roberts

DMN/4  
KOLHAGE



## Florida Department of Transportation

JEB BUSH  
GOVERNOR

Consultant Management Office  
1000 NW 111<sup>th</sup> Avenue, Room 6251  
Miami, Florida 33172  
(305) 470-5287

JOSÉ ARREU  
SECRETARY

March 19, 2003

MAR 25 2003

Mayor Dixie Spehar  
Monroe County  
500 Whitehead Street  
Key West, FL 33040

Dear Mayor Spehar:

Re: FM 2514571 – Flagler Avenue from Bertha St. to S. Roosevelt Blvd.- Landscaping.  
FM 2514572-Flagler Avenue from Bertha St. to S. Roosevelt Blvd.- Resurfacing

As requested in David Koppel's letter of July 5, 2002 to the Department, we have completed the design for the above referenced projects. The construction plans will be sent to Tallahassee for a June 18, 2003 letting date. Before we can send the contract package for Federal Highways authorization on March 27, 2003, we will need Monroe County to approve the Joint Project Agreement (JPA) and submit a check to the Comptrollers office for \$1,295,000.

The Department appreciates the opportunity to provide these desired projects to the public. Your prompt attention to the above items will help us expedite the letting process.

Sincerely yours,

Teresa Alvarez, P.E.  
District Consultant Management Engineer

Cc: Board of County Commission  
John Martinez  
David Mendez  
David Koppel

**FLORIDA DEPARTMENT OF TRANSPORTATION  
LOCALLY FUNDED  
JOINT PARTICIPATION AGREEMENT**

THIS AGREEMENT, made and entered into this 19 day of March, 2003, by and between the STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT", and MONROE COUNTY, hereinafter referred to as the "COUNTY."

**WITNESSETH:**

WHEREAS, the Parties have been granted specific legislative authority to enter into this AGREEMENT pursuant to Section 339.12, Florida Statutes; and

WHEREAS, the Department is prepared, in accordance with its Five Year Work Program, to construct the project described as CR5-A / Flagler Avenue in Key West, FL, in Fiscal Year 2002/2003, said project designated by the DEPARTMENT as Item No. 251457-2-52-01, hereinafter referred to as the "PROJECT"; and

WHEREAS, the implementation of the PROJECT is in the interests of both the DEPARTMENT and the COUNTY and it would be most practical, expeditious, and economically advantageous for the COUNTY to advance the funds for the Construction Phase of the PROJECT; and

WHEREAS, the COUNTY by Action dated March 19, 2003, a copy of which is attached hereto and made a part hereof, has agreed to advance to the DEPARTMENT an amount of \$1,220,000.00 for the Construction of the PROJECT.

NOW, THEREFORE, in further consideration of the mutual covenants hereinafter contained, the parties agree as follows:

1. (A) The COUNTY agrees that it will, at least fourteen (14) calendar days prior to the Department's advertising the project for bid, furnish the Department an advance deposit in the amount of \$ 1,220,000 (One Million Two-hundred twenty Thousand dollars) for full payment of the estimated project cost for Locally Funded project number 251457-2. The advance deposit shall be the total estimated project cost plus allowances (Allowances: Contingency \$75,000 ). The Department may utilize this deposit for payment of the costs of the project.

(B) If the accepted bid amount plus allowances is in excess of the advance deposit amount, the COUNTY will provide an additional deposit within fourteen (14) calendar days of notification from the Department or prior to posting of the accepted bid, whichever is earlier, so that the total deposit is equal to the bid amount plus allowances. The Department will notify the COUNTY as soon as it becomes apparent the accepted bid amount plus allowances is in excess of the advance deposit amount; however, failure of the Department to so notify the

COUNTY shall not relieve the COUNTY from its obligation to pay for its full participation on final accounting as provided herein below. If the COUNTY cannot provide the additional deposit within 14 days, a letter must be submitted to and approved by the Department's project manager indicating when the deposit will be made. The COUNTY understands the request and approval of the additional time could delay the project, and additional costs may be incurred due to a delay of the project.

(C) If the accepted bid amount plus allowances is less than the advance deposit amount, the Department will refund the amount that the advance deposit exceeds the bid amount plus allowances if such refund is requested by the COUNTY in writing.

(D) Should project modifications occur that increase the COUNTY's share of total project costs, the COUNTY will be notified by the District accordingly. The COUNTY agrees to provide, without delay, in advance of the additional work being performed, adequate funds to ensure that cash on deposit with the Department is sufficient to fully fund its share of the project. The Department shall notify the COUNTY as soon as it becomes apparent the actual costs will overrun the award amount; however, failure of the Department to so notify the COUNTY shall not relieve the COUNTY from its obligation to pay for its full participation on final accounting as provided herein below.

(E) The Department intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three-hundred and sixty days of final payment to the Contractor. All project cost records and accounts shall be subject to audit by a representative of the COUNTY for a period of three (3) years after final close out of the project. The Participant will be notified of the final cost. Both parties agree that in the event the final accounting of total project costs pursuant to the terms of this agreement is less than the total deposits to date, a refund of the excess will be made by the Department to the COUNTY.

(F) In the event said final accounting of total project costs is greater than the total deposits to date, the COUNTY will pay the additional amount within forty (40) calendar days from the date of the invoice from the Department. The COUNTY agrees to pay interest at a rate as established pursuant to Section 55.03, F. S., on any invoice not paid within forty (40) calendar days until the invoice is paid.

(G) Type of Deposit:  
The payment of funds under this Locally Funded Agreement will be made directly to the Department for deposit and as provided in the attached MOA between COUNTY, Department and the State of Florida, Department of Insurance, Division of Treasury.

(H) Contact Persons:

COUNTY:

Address: 1100 Simonton St. Rm. 231  
Key West, FL 33040

Contact Person: David Koppel

Telephone # (305) 292-4560

Fax # (305) 292-4558

DEPARTMENT:

District Contact: David J. Mendez

Telephone #: (305)470-5207 suncom: 429-5207

Fax # (305) 470-5547 suncom: 429-5547

2. The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature, and nothing herein shall be construed to violate the provisions of Section 339.135 (6)(a), Florida Statutes, which provides:

The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection, is null and void and no money may be paid on such contract. The Department shall require a statement from the Comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of a contract for periods exceeding one year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than one year.

3. The DEPARTMENT agrees to provide the COUNTY's Public Works Department with draft and final copies of all work products for the Construction Phase of the PROJECT, including, but not limited to, technical reports, studies, plans and specifications for the COUNTY's review and records.

4. The community involvement and public information tasks shall be accomplished by the COUNTY in conjunction with the DEPARTMENT.

5. In the event it becomes necessary for the DEPARTMENT to institute suit for the enforcement of the provisions of this AGREEMENT, the COUNTY shall pay the DEPARTMENT's reasonable attorney fees and court costs if the DEPARTMENT prevails. In

the event the COUNTY prevails in said suit, the DEPARTMENT shall pay the COUNTY's reasonable attorney fees and court costs.

6. To the extent permitted by law, the COUNTY agrees to indemnify the DEPARTMENT and all of its officers, agents, or employees from all claims, demands, or liability due to any act or omission, neglect or wrongdoing of the COUNTY or any of its officers, agents, or employees, and the COUNTY agrees to defend the DEPARTMENT against any and all such claims or demands which may be claimed and have arisen as a result of or in connection with the COUNTY's participation in this Agreement. Nothing contained herein shall be construed so as to contravene the provisions of Section 768.28 of the Florida Statutes, nor shall this Article be construed to require the COUNTY to indemnify the DEPARTMENT's own negligence.

7. To the extent permitted by law, the DEPARTMENT agrees to indemnify the COUNTY and all of its officers, agents, or employees from all claims, demands, or liability due to any act or omission, neglect or wrongdoing of the DEPARTMENT or any of its officers, agents, or employees; and the DEPARTMENT agrees to defend the COUNTY against any and all such claims or demands which may be claimed and have arisen as a result of or in connection with the DEPARTMENT's participation in this Agreement. Nothing contained herein shall be construed so as to contravene the provisions of Section 768.28 of the Florida Statutes, nor shall this Article be construed to require the DEPARTMENT to indemnify the COUNTY for the COUNTY's own negligence.

8. This Agreement shall be governed and construed in accordance with the laws of the State of Florida.

9. If any part of this Agreement shall be determined to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, if such remainder continues to conform to the terms and requirements of the applicable law.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their duly authorized officers, and their official seals hereto affixed, the day and year first above written.

MONROE COUNTY

STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION

BY: *L. J. M. Spitzer*

BY: *[Signature]*  
Jose Abreu, P.E.

TITLE: *Mayor / Chairman*

TITLE: *District Secretary, D6*

*[Signature]*  
APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY  
BY *[Signature]*  
ROBERT N. WOLFE  
DATE *2-28-03*



ATTEST: Danny L. Kolhage  
TITLE: County Clerk

APPROVED AS TO FORM

County Attorney

ATTEST: Margaret Heggins

TITLE: Administrative Assistant

APPROVED AS TO FORM

D. M. L. O.  
District General Counsel